

AMENDED IN ASSEMBLY MAY 22, 2008

AMENDED IN ASSEMBLY APRIL 15, 2008

AMENDED IN ASSEMBLY APRIL 2, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 2694

Introduced by Assembly Member Ma
(Coauthor: Assembly Member Huffman)
(Coauthor: Senator Florez)

February 22, 2008

An act to add Article 2.5 (commencing with Section 108590) to Chapter 5 of Part 3 of Division 104 of the Health and Safety Code, relating to product safety.

LEGISLATIVE COUNSEL'S DIGEST

AB 2694, as amended, Ma. Children's product safety: lead poisoning prevention.

Existing law prohibits a person from manufacturing, selling, or exchanging, having in his or her possession with intent to sell or exchange, or expose or offer for sale or exchange to any retailer, any toy that, among other things, is coated with paints or lacquers containing compounds of lead of which the lead content is in excess of prescribed federal standards for lead, or soluble compounds of antimony, arsenic, cadmium, mercury, selenium, or barium, as specified. Existing law makes a violation of that prohibition a misdemeanor.

This bill would, in addition, prohibit a person, firm, or corporation from manufacturing, selling, or exchanging, having in his or her possession with intent to sell or exchange, or expose or offer for sale or exchange to any retailer, any toy or child care article, as defined, or

any other product designed or intended for use by, or for the care of, a child 12 years of age or younger, that is determined to be a lead-bearing substance, as defined, is coated with a lead-bearing substance, or includes a component that is determined to be a lead-bearing substance. The bill would specify that it would not supersede any more stringent prohibition that would otherwise be applicable under state or federal law. *The bill would exempt from its prohibitions a component part of a children's product that is not accessible to a child through normal and foreseeable use and abuse of the product. The bill would also exempt electronic products and electronic product components that comply with a specified directive adopted by the European Parliament and the Council of the European Union.*

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) There are no safe blood levels of lead in children, and
4 children poisoned by lead suffer from learning disabilities, attention
5 deficits, and behavioral problems.

6 (b) Children's products containing lead pose a greater risk to
7 children because young children often put their hands and other
8 objects in their mouths.

9 (c) Legislation needs to be enacted that will ensure that children
10 in California are protected from exposure to unsafe levels of lead
11 in children's products.

12 SEC. 2. Article 2.5 (commencing with Section 108590) is
13 added to Chapter 5 of Part 3 of Division 104 of the Health and
14 Safety Code, to read:

15
16 Article 2.5. Lead Poisoning Prevention in Children's Products
17

18 108590. For purposes of this article, "lead-bearing substance"
19 means any substance that has a lead content of more than 40 parts
20 per million (ppm) lead by total weight.

21 108591. (a) No person, firm, or corporation shall manufacture,
22 sell, or exchange, possess with intent to sell or exchange, or expose
23 or offer for sale or exchange to any retailer, any toy or child care

1 article, as defined in Section 108935, or any other product designed
2 or intended for use by, or for the care of, a child 12 years of age
3 or younger, that is determined to be a lead-bearing substance, is
4 coated with a lead-bearing substance, or includes a component
5 that is determined to be a lead-bearing substance.

6 (b) A manufacturer shall use the least toxic alternative when
7 replacing lead in accordance with this article.

8 108592. (a) The prohibitions contained in this article are in
9 addition to those contained in Section 108555 or any other
10 provision of law, and shall not be construed to supersede any more
11 stringent prohibition that would otherwise be applicable under
12 state or federal law.

13 (b) *The prohibitions contained in this article shall not apply to*
14 *either of the following:*

15 (1) *A component part of a children's product that is not*
16 *accessible to a child through normal and foreseeable use and*
17 *abuse of the product. For purposes of this paragraph, a component*
18 *part is not accessible if it is not physically exposed by reason of a*
19 *sealed covering or casing and does not become physically exposed*
20 *through normal and reasonably foreseeable use and abuse of the*
21 *product. For purposes of this paragraph, paint, coatings, or*
22 *electroplating shall not be considered to be a barrier that would*
23 *render lead in the substrate inaccessible to a child through normal*
24 *and reasonably foreseeable use and abuse of the product.*

25 (2) *Electronic products and electronic product components that*
26 *comply with directive 2002/95/EC of the European Union, adopted*
27 *by the European Parliament and the Council of the European*
28 *Union, now or hereafter in effect.*